



Oregon

Kate Brown, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5696
FAX (503) 229-5100
TTY 711

February 24, 2021

CERTIFIED MAIL: 7017 0530 0000 7760 3048

Cascade Steel Rolling Mills, Inc.
c/o CT Corporation System, Registered Agent
780 Commercial Street SE, Suite 100
Salem, OR 97301-3465

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/I-WR-2020-117

DEQ is committed to balancing its vital obligation to enforce the law and protect the environment with a consideration of the dramatic disruptions to public health and the economy caused by the COVID-19 outbreak. We understand the outbreak may impact your ability to timely appeal, pay the assessed civil penalty, or comply with this order. You may submit to DEQ documentation identifying whether COVID-19-related disruption affects your ability to comply with this order. Visit our webpage <https://www.oregon.gov/deq/Pages/covid-19.aspx> for more information about documenting specific COVID-19 disruptions your facility may be encountering and how that affects your ability to comply. DEQ will exercise reasonable discretion regarding settlement of this order.

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$7,200 for failing to meet the oil & grease effluent limit contained in your National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit No. 101487. DEQ also cited you without penalty for failing to meet the temperature and pH effluent limits contained in your Permit.

DEQ issued this penalty because your wastewater discharges exceeded the effluent limits in your Permit. The Permit sets these limits to protect water quality in the water bodies that receive your Facility's wastewater. Frequently monitoring the effectiveness of your pollution controls and making necessary adjustments is important to ensuring Permit limits are met and water quality is not impaired.

DEQ appreciates your efforts to address the violations by repairing and modifying pollution controls at your facility, including oil skimmer maintenance and backups, and spray bar adjustments. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your request to DEQ Office of Compliance and Enforcement:

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – DEQappeals@deq.state.or.us

Via fax – 503-229-5100

Cascade Steel Rolling Mills, Inc.
Case No. WQ/I-WR-2020-117
Page 2

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor instead of paying a penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <http://www.oregon.gov/deq/Regulations/Pages/Statutes.aspx> or by calling the number below.

If you have any questions, please contact Anzie St. Clair at 971-808-7368 or toll free in Oregon at 800-452-4011, extension 5422.

Sincerely,



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

Enclosures

cc: Steve Nichols, Western Region, DEQ
Ranei Nomura, DEQ
Accounting, DEQ

1 BEFORE THE ENVIRONMENTAL QUALITY COMMISSION

2 OF THE STATE OF OREGON

3 IN THE MATTER OF:)
4 CASCADE STEEL ROLLING MILLS, INC.,) NOTICE OF CIVIL PENALTY
an Oregon corporation,) ASSESSMENT AND ORDER
Respondent.) CASE NO. WQ/I-WR-2020-117

6 I. AUTHORITY

7 The Department of Environmental Quality (DEQ) issues this Notice of Civil Penalty Assessment
8 and Order (Notice) pursuant to Oregon Revised Statutes (ORS) 468.100, ORS 468.126 through 468.140,
9 ORS Chapters 183 and 468B, and Oregon Administrative Rules (OAR) Chapter 340, Divisions 011, 012,
10 041, and 045.

11 II. FINDINGS OF FACT

12 1. Respondent manages and disposes of wastewater from its steel rolling facility at 3200 N
13 Highway 99W in McMinnville, Yamhill County, Oregon (the Facility), which discharges through
14 Outfall 001 to a drainage ditch that travels approximately 300 feet to an unnamed seasonal tributary of
15 the South Yamhill River, through Outfall 002 to the North Fork of the Yamhill River, and through
16 Outfall 003 to the unnamed seasonal tributary.

17 2. At all material times, the Facility is and was covered by National Pollutant Discharge
18 Elimination System (NPDES) Waste Discharge Permit No. 101487 (the Permit).

19 3. The Permit authorizes Respondent to discharge wastes from the Facility through Outfalls
20 001, 002, and 003 only in conformance with the conditions and limitations set forth in the Permit. The
21 Permit requires Respondent to sample its effluent for certain parameters and record daily data as well as
22 monthly averages.

23 4. Schedule A, condition 1.a. of the Permit limits the temperature of Respondent's effluent at
24 Outfall 001 to a daily maximum of 105 degrees Fahrenheit and a monthly average of 95 degrees
25 Fahrenheit.

26 5. Schedule A, condition 1.a. of the Permit limits oil and grease in Respondent's effluent at
27 Outfall 001 to the monthly average of 10 mg/L.

6. Schedule A, condition 1.b. of the Permit limits the pH of Respondent's effluent at Outfall 002 to within the range of 6.0 and 9.0 units.

7. Respondent discharged effluent from its Facility through Outfall 001 with monthly average temperatures in excess of Permit limits of 95 degrees for the months described in the table below:

Month and Year	Effluent	Permit limit
June 2017	97	95
July 2018	96	95
August 2018	98	95
June 2019	98	95

8. In August and September 2019, Respondent discharged effluent from its Facility through Outfall 001 with daily maximum temperatures of 106 and 108 degrees Fahrenheit, respectively, which are above the Permit limit of 105 degrees Fahrenheit.

9. In August 2019, Respondent discharged effluent from its Facility through Outfall 001 with a monthly average concentration of oil and grease at 18.75 mg/L, which is 87.5% above the Permit limit of 10 mg/L.

10. In February 2017, Respondent discharged effluent from its Facility through Outfall 002 with a pH of 9.1, which is outside the Permit range of 6.0 and 9.0 units.

III. CONCLUSIONS

1. Respondent has violated ORS 468B.025(2) by violating Schedule A, condition 1.a of its Permit for temperature. Specifically, Respondent's Facility discharge exceeded Permit effluent limits for temperature as described in Section II above. These are Class I violations according to OAR 340-012-0055(1)(l) because the Permit's effluent limit on temperature is a water quality-based effluent limitation. DEQ has not assessed a civil penalty for these violations.

2. Respondent has violated ORS 468B.025(2) by violating Schedule A, condition 1.a of its Permit for oil and grease. Specifically, Respondent's Facility discharge exceeded Permit effluent limits for oil and grease as described in Section II above. This is a Class I violation according to OAR 340-012-0055(1)(k)(A) because the oil and grease effluent limit in Respondent's Permit is technology-based

1 and Respondent exceed the limit by more than 50 percent. DEQ hereby assesses a \$7,200 civil penalty
2 for this violation.

3 3. Respondent has violated ORS 468B.025(2) by violating Schedule A, condition 1.a of its
4 Permit for pH. Specifically, Respondent's Facility discharge exceeded Permit effluent limits for pH as
5 described in Section II above. This is a Class III violation according to OAR 340-012-0055(3)(b)(B)
6 because the Permit effluent limit for pH is technology-based and Respondent's discharge was outside
7 the permitted pH range by 1 pH unit or less. DEQ has not assessed a civil penalty for this violation.

8 IV. ORDER TO PAY CIVIL PENALTY

9 Based upon the foregoing FINDINGS OF FACTS AND CONCLUSIONS, Respondent is
10 hereby ORDERED TO:

11 1. Pay a total civil penalty of \$7,200. The determination of the civil penalty is attached as Exhibit
12 1 and is incorporated as part of this Notice.

13 If you do not file a request for hearing as set forth in Section V below, your check or money
14 order must be made payable to "**State Treasurer, State of Oregon**" and sent to the **DEQ, Business**
15 **Office, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232.**

16 V. NOTICE OF RIGHT TO REQUEST A CONTESTED CASE HEARING

17 You have a right to a contested case hearing on this Notice, if you request one in writing. DEQ
18 must receive your request for hearing **within 20 calendar days** from the date you receive this Notice. If
19 you have any affirmative defenses or wish to dispute any allegations of fact in this Notice or attached
20 exhibit, you must do so in your request for hearing, as factual matters not denied will be considered
21 admitted, and failure to raise a defense will be a waiver of the defense. (See OAR 340-011-0530 for
22 further information about requests for hearing.) You must send your request to: **DEQ, Office of**
23 **Compliance and Enforcement, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232**, fax
24 it to **503-229-5100** or email it to DEQappeals@deq.state.or.us. An administrative law judge
25 employed by the Office of Administrative Hearings will conduct the hearing, according to ORS
26 Chapter 183, OAR Chapter 340, Division 011 and OAR 137-003-0501 to 0700. You have a right to be
27 represented by an attorney at the hearing, however you are not required to be. If you are an individual,

1 you may represent yourself. If you are a corporation, partnership, limited liability company,
2 unincorporated association, trust or government body, you must be represented by an attorney or a duly
3 authorized representative, as set forth in OAR 137-003-0555.

4 Active duty Service members have a right to stay proceedings under the federal Service
5 Members Civil Relief Act. For more information contact the Oregon State Bar at 1-800-
6 452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed
7 Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military
8 Department does not have a toll free telephone number.

9 If you fail to file a timely request for hearing, the Notice will become a final order by default
10 without further action by DEQ, as per OAR 340-011-0535(1). If you do request a hearing but later
11 withdraw your request, fail to attend the hearing or notify DEQ that you will not be attending the
12 hearing, DEQ will issue a final order by default pursuant to OAR 340-011-0535(3). DEQ designates
13 the relevant portions of its files, including information submitted by you, as the record for purposes of
14 proving a prima facie case.

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16
17
18 2/24/2021
19 Date



Kieran O'Donnell, Manager
Office of Compliance and Enforcement

EXHIBIT 1

FINDINGS AND DETERMINATION OF RESPONDENT'S CIVIL PENALTY
PURSUANT TO OREGON ADMINISTRATIVE RULE (OAR) 340-012-0045

VIOLATION: Exceeding the Permit's oil and grease effluent limit in violation of ORS 468B.025(2) and Schedule A, condition 1.a of the Permit.

CLASSIFICATION: This is a Class I violation pursuant to OAR 340-012-0055(1)(k)(A) because Respondent exceeded the Permit limit by 50% or more.

MAGNITUDE: The magnitude of the violation is moderate pursuant to OAR 340-012-0135(2)(a)(B)(i) because Respondent's effluent flow was diluted by a factor of 2 or more but less than 10 in the receiving ditch.

CIVIL PENALTY FORMULA: The formula for determining the amount of penalty of each violation is: $BP + [(0.1 \times BP) \times (P + H + O + M + C)] + EB$

"BP" is the base penalty, which is \$4,000 for a Class I, moderate magnitude violation in the matrix listed in OAR 340-012-0140(3)(b)(A)(ii) and applicable pursuant to OAR 340-012-0140(3)(a)(E)(ii) because Respondent violated conditions in its Tier 2 industrial source NPDES Permit.

"P" is whether Respondent has any prior significant actions, as defined in OAR 340-012-0030(19), in the same media as the violation at issue that occurred at a facility owned or operated by the same Respondent, and receives an initial value of 53 according to OAR 340-012-0145(2)(a)(C) and (D), because Respondent has 52 Class I violations in case no. WQ/I-WR-15-117, issued on September 29, 2015. According to OAR 340-012-0145(2)(b), this amount is reduced to 10 because the value of P will not exceed 10. According to OAR 340-012-0145(2)(d)(A)(i), this amount is further reduced by 2 because all the formal enforcement actions in which prior significant actions were cited were issued more than three years before the date the current violation occurred. The final value is 8.

"H" is Respondent's history of correcting prior significant actions, and receives a value of -1 according to OAR 340-012-0145(3)(b) because the violations were uncorrectable and Respondent took reasonable efforts to minimize the effects of the violations cited as prior significant actions.

"O" is whether the violation was repeated or ongoing, and receives a value of 0 according to OAR 340-012-0145(4)(a) because there was only one occurrence of the violation. Respondent exceeded the monthly average oil and grease Permit effluent limit once, in August 2019.

"M" is the mental state of the Respondent, and receives a value of 2 according to OAR 340-012-0145(5)(b) because Respondent had constructive knowledge (reasonably should have known) of the requirement. Respondent monitors and reports to DEQ monthly average oil

and grease concentrations in its effluent and reasonably should have known that exceeding the oil and grease effluent limit in its Permit was a Permit violation.

"C" is Respondent's efforts to correct or mitigate the violation, and receives a value of -1 according to OAR 340-012-0145(6)(e) because Respondent made reasonable efforts to ensure the violation would not be repeated. Respondent repaired its malfunctioning oil skimmer and reported to DEQ that it keeps a spare unit in stock and that it checks the performance of its oil skimmer daily.

"EB" is the approximate dollar value of the benefit gained and the costs avoided or delayed as a result of the Respondent's noncompliance. It is designed to "level the playing field" by taking away any economic advantage the entity gained and to deter potential violators from deciding it is cheaper to violate and pay the penalty than to pay the costs of compliance. In this case, "EB" receives a value of \$0 as DEQ finds the economic benefit was de minimis pursuant to OAR 340-012-0150(4), where Respondent delayed paying a repair technician to perform one hour of preventative maintenance on its oil skimmer one month prior to the violation.

PENALTY CALCULATION: $\text{Penalty} = \text{BP} + [(0.1 \times \text{BP}) \times (\text{P} + \text{H} + \text{O} + \text{M} + \text{C})] + \text{EB}$
 $= \$4,000 + [(0.1 \times \$4,000) \times (8 + -1 + 0 + 2 + -1)] + \0
 $= \$4,000 + (\$400 \times 8) + \$0$
 $= \$4,000 + \$3,200 + \$0$
 $= \$7,200$